

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ALEC TABAK,

Plaintiff,

- against -

ABS-CBN INTERNATIONAL

Defendant.

Docket No. 3:19-cv-5202

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Alec Tabak (“Tabak” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant ABS-CBN International (“ABS-CBN” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of two copyrighted photographs of Trinity Sunaz, owned and registered by Tabak, a professional photographer. Accordingly, Tabak seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in California.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

## **PARTIES**

5. Tabak is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 17 Monroe Street, Apt R3, New York, New York 10002.

6. Upon information and belief, ABS-CBN is a domestic business corporation duly organized and existing under the laws of the State of California, with a place of business at 2001 Junipero Serra Blvd. Suite 200, Daly City, California 94014. Upon information and belief, ABS-CBN is registered with the California Department of Corporations to do business in California.

At all times material, hereto, ABS-CBN has owned and operated a Websites at the URL:

[www.Balitangamerica.tv](http://www.Balitangamerica.tv) and has operated their own Youtube page at the URL:

<https://www.youtube.com/user/TFCBalitangAmerica> (the “Websites”).

## **STATEMENT OF FACTS**

### **A. Background and Plaintiff’s Ownership of the Photographs**

7. Tabak photographed Trinity Sunaz (the “Photographs”). True and correct copies of the Photographs are attached hereto as Exhibit A.

8. Tabak is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

9. The Photographs were registered with the United States Copyright Office and were given registration number VA 2-036-496.

### **B. Defendant’s Infringing Activities**

10. ABS-CBN ran the Photographs in a video on the Websites. Screenshots of the Photographs on the Websites are attached hereto as Exhibit B.

11. ABS-CBN did not license the Photographs from Plaintiff for its Websites, nor did ABS-CBN have Plaintiff's permission or consent to publish the Photographs on its Websites.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)**  
**(17 U.S.C. §§ 106, 501)**

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. ABS-CBN infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Websites. ABS-CBN is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photographs, pursuant to 17 U.S.C. § 504(c).

18. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant ABS-CBN be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
August 20, 2019

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